

ASSEMBLY BILL

No. 1565

Introduced by Assembly Member Lieber

February 23, 2007

An act to amend Section 4062.2 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1565, as introduced, Lieber. Workers' compensation: medical evaluations.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law provides that whenever a comprehensive medical evaluation is required to resolve any dispute arising out of an injury or a claimed injury occurring on or after January 1, 2005, and the employee is represented by an attorney, the evaluation shall be obtained only in accordance with prescribed requirements for the conduct of the evaluation.

This bill would make a technical, nonsubstantive change to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4062.2 of the Labor Code is amended to
2 read:

1 4062.2. (a) Whenever a comprehensive medical evaluation is
2 required to resolve any dispute arising out of an injury or a claimed
3 injury occurring on or after January 1, 2005, and the employee is
4 represented by an attorney, the evaluation shall be obtained only
5 as provided in this section.

6 (b) If either party requests a medical evaluation pursuant to
7 Section 4060, 4061, or 4062, either party may commence the
8 selection process for an agreed medical evaluator by making a
9 written request naming at least one proposed physician to be the
10 evaluator. The parties shall seek agreement with the other party
11 on the physician, who need not be a qualified medical evaluator,
12 to prepare a report resolving the disputed issue. If no agreement
13 is reached within 10 days of the first written proposal that names
14 a proposed agreed medical evaluator, or any additional time not
15 to exceed 20 days agreed to by the parties, either party may request
16 the assignment of a ~~three-member~~ panel of *three* qualified medical
17 evaluators to conduct a comprehensive medical evaluation. The
18 party submitting the request shall designate the specialty of the
19 medical evaluator, the specialty of the medical evaluator requested
20 by the other party if it has been made known to the party submitting
21 the request, and the specialty of the treating physician. The party
22 submitting the request form shall serve a copy of the request form
23 on the other party.

24 (c) Within 10 days of assignment of the panel by the
25 administrative director, the parties shall confer and attempt to agree
26 upon an agreed medical evaluator selected from the panel. If the
27 parties have not agreed on a medical evaluator from the panel by
28 the 10th day after assignment of the panel, each party may then
29 strike one name from the panel. The remaining qualified medical
30 evaluator shall serve as the medical evaluator. If a party fails to
31 exercise the right to strike a name from the panel within three
32 working days of gaining the right to do so, the other party may
33 select any physician who remains on the panel to serve as the
34 medical evaluator. The administrative director may prescribe the
35 form, the manner, or both, by which the parties shall conduct the
36 selection process.

37 (d) The represented employee shall be responsible for arranging
38 the appointment for the examination, but upon his or her failure
39 to inform the employer of the appointment within 10 days after

1 the medical evaluator has been selected, the employer may arrange
2 the appointment and notify the employee of the arrangements.
3 (e) If an employee has received a comprehensive medical-legal
4 evaluation under this section, and he or she later ceases to be
5 represented, he or she shall not be entitled to an additional
6 evaluation.

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